

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WISCONSIN

JAMES EDWARD GRANT,

Plaintiff,

v.

TRENTON SCHAFER,

Defendant.

ORDER

08-cv-672-bbc

Judgment was entered in this civil rights lawsuit on July 23, 2009 after I granted defendant's motion for summary judgment on plaintiff's excessive force claim. I subsequently denied two motions for relief from judgment brought by plaintiff under Fed. R. Civ. P. 60. Now plaintiff has filed a notice of appeal of the judgment and a request for appointment of counsel on the appeal. The appeal may be untimely, but I will not deny it for that reason. Only the Court of Appeals for the Seventh Circuit may determine whether it has jurisdiction to entertain an appeal. Hyche v. Christensen, 170 F.3d 769, 770 (7th Cir. 1999).

In an April 21, 2010 order, the court of appeals concluded that plaintiff could not proceed in forma pauperis on appeal because he has struck out under 28 U.S.C. § 1915(g). The court of appeals gave plaintiff until May 5, 2010 to pay the entire \$455 filing fee for

this appeal. Plaintiff responded to this order by filing a motion in this court for an extension of time to pay the full filing fee. Again, this is a matter only the court of appeals may entertain. I will deny the motion and forward it to the court of appeals.

For the same reason, I must deny plaintiff's motion for appointment of counsel because he has raised it in the wrong court. This motion has already been forwarded to the court of appeals.

ORDER

IT IS ORDERED that

1. Plaintiff James Grant's motion for an extension of time in which to pay the \$455 filing fee for this appeal, dkt. #53, is DENIED; the motion will be forwarded to the court of appeals.

2. Plaintiff's motion for appointment of counsel on appeal, dkt. #50, is DENIED.

Entered this 6th day of May, 2010.

BY THE COURT:
/s/
BARBARA B. CRABB
District Judge